

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

THE UNITED STATES OF AMERICA
ex rel. SHAUNA HLYWIAK,

Plaintiff,

v.

GREAT LAKES EDUCATIONAL
LOAN SERVICES, INC., *et al.*,

Defendants.

Civil Action

Case No. 1:20-cv-13590-RMB-KMW

SIENNA LYONS, *et al.*,

Plaintiffs,

v.

GREAT LAKES EDUCATIONAL
LOAN SERVICES, INC., *et al.*,

Defendants.

Civil Action

Case No. 1:21-cv-01047-RMB-KMW

VICTORIA GALLAGHER, *et al.*,

Plaintiffs,

v.

NAVIENT CORPORATION, *et al.*,

Defendants.

Civil Action

Case No. 1:21-cv-01052-RMB-KMW

GARY STROCKBINE, *et al.*,

Plaintiffs,

v.

PENNSYLVANIA HIGHER
EDUCATION ASSISTANCE AGENCY
a/k/a PHEAA d/b/a FEDLOAN
SERVICING,

Defendant.

Civil Action

Case No. 1:21-cv-09096-RMB-SAK

STIPULATION AND ORDER REGARDING
MOTION TO DISMISS BRIEFING

Counsel for Plaintiffs/Relator Shauna Hlywiak, Sienna Lyons, Danielle Labelle, Sandra O'Donnell, Victoria Gallagher, Megan O'Donnell, Gary Strockbine, Sean Maher, and Rachel Ann Philbin (collectively "Plaintiffs") and Defendants Navient Corporation and Navient Solutions, LLC (collectively, "Navient"), Pennsylvania Higher Education Assistance Agency ("PHEAA"), Great Lakes Educational Loan Services, Inc. ("Great Lakes"), Nelnet Servicing, LLC, Nelnet, Inc., and Nelnet Diversified Solutions (collectively "Nelnet," and together with Navient, PHEAA, and Great Lakes, the "Defendants") make the following stipulated request regarding the format and schedule for briefing related to the Defendants' forthcoming motions to dismiss in the above-captioned cases, which

counsel for Plaintiffs have designated as involving the same subject matter pursuant to L. Civ. R. 11.2. In support of their request, the parties state as follows:

WHEREAS, on September 30, 2020, Relator Hlywiak initiated the case styled *The United States of America ex re. Shauna Hlywiak v. Great Lakes Educational Loan Services, Inc., et al.*, Case No. 1:20-cv-13590-RMB-KMW. On January 7, 2021, Hlywiak filed her Amended Complaint in that case,

WHEREAS, on January 22, 2021, Plaintiffs Lyons, LaBelle, and Sandra O'Donnell initiated the case styled *Lyons, et al. v. Great Lakes Educational Loan Services, Inc., et al.*, Case No. 1:21-cv-01047-RMB-KMW,

WHEREAS, also on January 22, 2021, Plaintiffs Gallagher and Megan O'Donnell initiated the case styled *Gallagher, et al. v. Navient Corporation, et al.*, Case No. 1:21-cv-01052-RMB-KMW,

WHEREAS, on April 13, 2021, Plaintiffs Strockbine, Maher, and Philbin initiated the case styled *Strockbine, et al. v. Pa. Higher Education Assistance Agency*, Case No. 1:21-cv-09096-RMB-SAK,

WHEREAS, the Defendants intend to file motions to dismiss the respective actions pursuant to Federal Rules of Civil Procedure 9(b), 12(b)(1), and/or 12(b)(6), as well as to move to strike certain class allegations in the *Lyons*, *Gallagher*, and *Strockbine* proceedings,

WHEREAS, on April 5, 2021, the parties jointly requested an extension on all deadlines for motions to dismiss, pending the Court's determination with respect to its March 30, 2021 Order to Show Cause regarding consolidation, and WHEREAS the Court granted the parties' request on April 6, 2021,

WHEREAS, on April 16, 2021, the Court reserved judgment regarding consolidation and ordered the parties to file a proposed briefing schedule for the forthcoming motions to dismiss,

WHEREAS, following the Court's April 16 Order, the parties have conferred regarding an efficient and timely means for briefing in relation to the forthcoming motions to dismiss and now stipulate to the following procedures and schedule for such briefing, and respectfully request that the Court enter an order reflecting such agreement:

A. Schedule for Potential Amendments and Briefing

1. To the extent that Plaintiffs intend to amend their Complaints in either the *Lyons* or *Gallagher* matters, they will do so by May 10, 2021.
2. Defendants will file all motions to dismiss and/or strike and briefs in support as set forth below no later than June 10, 2021.
3. Plaintiffs shall file their oppositions to all motions as set forth below no later than August 9, 2021.
4. Defendants shall file their replies as set forth below no later than September 2, 2021.

5. Plaintiffs reserve their right to seek, and Defendants reserve their right to oppose, the Court's permission for Plaintiffs to file Sur-Replies.
6. The motions will be noticed for the September 21, 2021 Motion Day, although the parties take no position on the need for oral argument at this time.

B. Format for Briefing Motions to Dismiss in *Hlywiak* (False Claims Act case)

1. Defendants' Motions and Opening Briefs.
 - a. Each Defendant Group¹ intends to move to dismiss the Amended Complaint in *Hlywiak* pursuant to Rules 9(b), 12(b)(1), and/or 12(b)(6).
 - b. Defendants will file a single brief in support of their motions of no more than 50 pages addressing both (i) common arguments on behalf of all Defendants, and (ii) any arguments addressing issues specific to a particular Defendant Group.
2. Plaintiffs' Opposition Brief.
 - a. Relator *Hlywiak* will file a single brief in opposition to all arguments raised in Defendants' joint and supplemental briefs of no more than 50 pages.
3. Defendants' Replies.
 - a. Defendants will file a single reply in support of their motions of no more than 25 pages addressing both

¹ For abundance of clarity regarding the parties use of the shorthand "Defendant Group" in this proposal and stipulation: there are three separate Defendant "Groups": (1) the Great Lakes and Nelnet Defendants, which includes Great Lakes Educational Loan Services, Inc.; Nelnet Servicing, LLC; Nelnet, Inc.; and Nelnet Diversified Solutions; (2) the Navient Defendants, which includes Navient Corporation and Navient Solutions, LLC; and (3) the Pennsylvania Higher Education Assistance Agency ("PHEAA") (which is sued alone, but referred to here as a "Group").

- (i) common arguments on behalf of all Defendants, and
- (ii) any reply arguments addressing issues specific to a particular Defendant Group.

4. Plaintiffs' Sur-Reply.

- a. Plaintiffs reserve their right to seek, and Defendants reserve their right to oppose, the Court's permission for Plaintiffs to file a Sur-Reply.

C. Format for Briefing Motions to Dismiss in *Lyons*, *Gallagher*, and *Strockbine* (Class Actions)

1. Defendants' Motions and Opening Briefs.

- a. Each Defendant Group intends to move to dismiss the respective class action complaint filed against it (Great Lakes and Nelnet in *Lyons*, Navient in *Gallagher*, and PHEAA in *Strockbine*) as well as to strike certain class allegations.
- b. Given the overlapping allegations across all three complaints, the Defendants will file a single brief in support of their respective motions of no more than 50 pages addressing both (i) common arguments in the class actions, and (ii) any arguments addressing issues specific to a particular class action.

2. Plaintiffs' Opposition Brief.

- a. Plaintiffs in the class actions will file a single brief in opposition to all arguments raised in the Defendants' joint and supplemental class action briefs of no more than 50 pages.

3. Defendants' Replies.

- a. The Defendants will file a single reply in support of their class action motions of no more than 25 pages addressing both (i) common arguments in the class actions, and (ii) any reply arguments addressing issues specific to a particular class action.

4. Plaintiffs' Sur-Reply.

- a. Plaintiffs reserve their right to seek, and Defendants reserve their right to oppose, the Court's permission for Plaintiffs to file a Sur-Reply.

D. Compliance with the Court's Pre-Motion Conference Requirement

1. The parties are mindful of Section I.A. of the Court's Rules and Procedures regarding Pre-Motion Conferences. To that end, each of the Defendant Group's previously sought leave to file a motion to dismiss in the *Hlywiak* matter, which the Court granted on March 26, 2021. Additionally, (i) Great Lakes and Nelnet filed a similar request in the *Lyons* action, which the Court has not yet ruled upon, and (ii) the Court has granted Navient's requested leave to file a Rule 12 motion in the *Gallagher* action without the necessity of submitting a pre-motion conference request.
2. In order to maintain the common scheduling proposed herein, and to avoid confusion regarding the need to submit pre-motion conference requests regarding any additional complaints and/or potential future amended complaints, the parties agree, and ask the Court to confirm as part of this Stipulation and Order, that the Defendants shall have leave to file their Rule 12 motions as set forth herein in each of the aforementioned actions without the need for further letter requests (or action on Great Lakes/Nelnet's pending request).

Dated: April 26, 2021

/s/ Stephen M. Orlofsky

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Dated: April 26, 2021

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Dated: April 26, 2021

/s/ David M. Cedar

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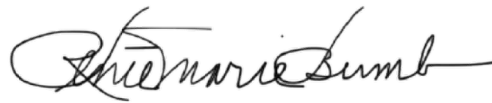
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IT IS on this 27th day of April 2021 **SO ORDERED** as stipulated above.*

*Please see modifications to the parties' proposal on pages 5 and 6

A handwritten signature in black ink, reading "Renee M. Bumb". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

HONORABLE RENEE M. BUMB

UNITED STATES DISTRICT JUDGE